

[NOT YET SCHEDULED FOR ORAL ARGUMENT]

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

UNITED STATES POSTAL SERVICE.,

Petitioner,

v.

POSTAL REGULATORY COMMISSION,

Respondent.

ALLIANCE OF NONPROFIT MAILERS, ET
AL.,

Intervenors.

No. 13-1308

**RESPONDENT'S UNOPPOSED MOTION FOR A 10-DAY EXTENSION
OF TIME TO FILE ITS BRIEF**

Pursuant to Fed. R. App. P. 26 & 27, Respondent Postal Regulatory Commission respectfully moves for a 10-day extension of time, to and including June 30, 2014, within which to file its respondent brief. The reasons for the motion are set out below. This motion is unopposed.

1. This case involves a petition for review filed by the United States Postal Service, seeking review of an order of the Postal Regulatory Commission regarding the annual price cap on postal rates. Several mailing organizations have intervened as respondents.¹

2. The Postal Service filed its opening brief on May 19, 2014, and then filed an amended brief on May 27, 2014. Under the current briefing schedule, the brief for respondent Postal Regulatory Commission is due on June 18, 2014.

3. The requested extension is necessary in part because the lead appellate attorney for the government, Benjamin Shultz, is also assigned as the lead attorney on another matter, *Ministry of Defense v. Frym*, No. 13-57182 (9th Cir.), in which the United States will be filing an *amicus* brief supporting affirmance. Until recently—when the appellees sought and received an extension from the Ninth Circuit—it was expected that the

¹ The intervenors are the Alliance of Nonprofit Mailers, the American Catalog Mailers Association, the Association for Postal Commerce, the Direct Marketing Association, Inc., the Association of Magazine Media, the National Postal Policy Council, the Valpak Dealers' Association, Inc., and Valpak Direct Marketing Systems, Inc.

government's *amicus* brief would be due on June 3, 2014. Accordingly, Mr. Shultz spent significant time preparing the government's brief in that case, in the expectation of meeting the June 3rd due date.

4. The requested extension is also necessary because a key agency attorney at the Postal Regulatory Commission is out of the country, on a pre-planned vacation, between May 30, 2014 and June 16, 2014. The attorney has particularized knowledge regarding this case, and the requested extension will ensure that this attorney has sufficient time to consult with and assist the Department of Justice attorneys responsible for preparing the Postal Regulatory Commission's brief.

5. David Belt, counsel for the Postal Service, informed the undersigned that the Postal Service does not object to this motion. William Baker, counsel for intervenor National Postal Policy Counsel, and William Olson, counsel for intervenors Valpak Dealers' Association, Inc., and Valpak Direct Marketing Systems, Inc., informed the undersigned that their clients do not oppose this motion as long as their clients receive a commensurate 10-day extension within which to file their brief. David

Levy, counsel for the remaining intervenors, informed the undersigned that his clients do not oppose this motion.

Respectfully submitted,

MICHAEL S. RAAB
(202) 514-4053

/s/ Benjamin M. Shultz

BENJAMIN M. SHULTZ

(202) 514-3518

Attorneys, Appellate Staff

Civil Division

U.S. Department of Justice

950 Pennsylvania Ave., N.W.

Room 7211

Washington, D.C. 20530

JUNE 2014

CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2014, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system. I further certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Benjamin M. Shultz

Benjamin M. Shultz